

**STATEMENT BEFORE THE WYOMING SELECT COMMITTEE ON
BLOCKCHAIN, FINANCIAL TECHNOLOGY AND DIGITAL
INNOVATION TECHNOLOGY**

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Chairman Rothfuss, Chairman Olsen, and Honorable members of the Select Committee on Blockchain, Financial Technology and Digital Innovation Technology, thank you for the opportunity to comment on the Wyoming Decentralized Autonomous Organizations legislation today.

I am a core contributor of Alliance DAO, a DAO established to provide builders of the infrastructure and content of the next generation of the internet (commonly referred to as “web3”) with a platform and network that encourages and rewards the pursuit of creation and creativity in blockchain technology. I am also a participant in the Global Digital Asset and Cryptocurrency Association, a global self-regulatory organization for the digital asset & cryptocurrency industry. I am a resident of the State of Illinois, where I am joined by a growing group of attorneys and industry participants who believe it is crucial for the state and federal legislatures to foster growth and provide certainty in the recognition and regulation of blockchain technologies to sustain America’s primacy in technological innovation. We advocate for Illinois to follow Wyoming’s lead in passing legislation to enable the creation of DAOs in our state.

I am grateful to you and the Wyoming state government for taking the momentous step in recognizing DAOs as a functional structure. Wyoming has a history of leading the nation in the development of crucial legal structures. Wyoming was the first to enact a statute that permitted the creation of limited liability companies in 1977, fourteen years prior to the State of Delaware. Your pioneering efforts in corporate structure give credence to the concept of federalism, where “a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments” as articulated by Justice Louis Brandeis.

Acknowledging that many deep thinkers and esteemed organizations are here today to present you with proposals to augment Wyoming’s current DAO statutory framework, I intend to present one recommended amendment to Title 17, Chapter 31 of the Wyoming Statutes.

17-31-113. Default rules for entry or withdrawal of members.

(a) Except as specified in (b) below, ~~a~~^A member may only withdraw from a decentralized autonomous organization in accordance with the terms set forth in the articles of organization, the smart contracts or, ~~if applicable,~~ the operating agreement.

(b) Where the articles of organization, operating agreement, and smart contracts for a decentralized autonomous organization are silent on the manner by which a person becomes a member of or withdraws membership from the decentralized autonomous organization, a person shall be considered a member if and when such person purchases or otherwise assumes a right of ownership of a membership interest or other property that confers upon such person a voting or economic right within the decentralized autonomous organization and such person shall cease to be a member if and when such person transfers, sells, or alienates all such membership interests or other property that confers upon such person a voting or economic right within the decentralized autonomous organization and retains no further right of ownership thereto.¹

The current statute enables DAOs to define both the “[r]elations among the members and between the members and the decentralized autonomous organization,” and the means of “[w]ithdrawal of membership” (17-31-106(3)(i), (vii)) in the articles of organization, the operating agreement, or the DAO’s smart contracts. There is a modest disconnect between form and practice in the current statute. Many DAOs do not clarify in their documentation what constitutes “membership.” Instead, these DAOs are structured such that a right attaches to a token, or other form of smart contract-enabled interest, and not to a specific person. In this way, a token right is analogous to the real property concept of a covenant that runs with the land and stands in contrast to a personal covenant. Absent wallet-specific transfer or access restrictions written into the DAO’s smart contracts, a DAO’s smart contracts interpret the token (or other unit of governance or economic right) as the member and are agnostic to which actor holds a wallet to sign a command. For this reason, DAO documentation often omits reference to the acquisition of or withdrawal of membership and simply defines the rights that attach to a relevant unit of value within the DAO.

DAOs are likely to overlook providing explicit rules for the creation or termination of a membership relationship. The Working Draft with identifier “22LSO-0063”

¹ Note: the removal of “if applicable” in (a) is included in the Working Draft.

included with today's agenda suggests a consideration by the Wyoming House of Representatives that DAOs may not specifically define membership in their articles of organization, operating agreement, or documentation. The Working Draft proposes to add that a "membership interest" may be "ascertainable from a blockchain on which [an] organization relies." (17-31-102(vi) proposed amendment).

The proposed amendment to 17-31-113, articulated in this statement, functions in tandem with the Working Draft amendment, as there are many instances in which what constitutes a membership interest in a DAO is not easily ascertainable by reference to the blockchain network. Smart contracts enable a broader scope of actions that can be performed on tokens (or other units of ownership) than may apply to traditional LLC membership interests. For instance, many DAOs permit actions such as "staking", whereby token holders commit to lock their tokens to become a network validator, or to delegate their tokens to a network validator. In some cases, token holders who stake their tokens lose governance rights for the period during which the tokens are staked; however, they have the right to "un stake" the tokens—either at will or at a specified time—and thus retain ownership. In such circumstances, statutory interpretation can lead to differential outcomes if there is not a default rule for delineating the start and end of membership. The proposed amendment to 17-31-113 provides a clarification by setting the beginning and ending of the ownership (vs. possession) of economic and / or voting right (as opposed to possession or some other indicator) as the beginning and ending of membership.

Thank you for your time and for your continued dedication to breaking ground for innovation. I am happy to answer any questions the Select Committee may have.